

MUST News

Department of Environmental Quality

Spring Issue 2007



Underground storage tank being installed in a lined excavation.

Terms End June 30 for Three PTRC Board Members

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Three of the seven members of the Montana Petroleum Tank Release Compensation Board are serving terms that will expire this summer.

The law sets staggered terms for board members and requires representation of various public and industry interests. Appointments to the board are made by the governor.

Board members Greg Cross of Billings, Roger Noble of Kalispell, and Shaun Peterson of Helena are serving terms that expire June 30, 2007. Greg was appointed as a representative of the independent petroleum marketers and chain retailers, Roger represents the petroleum release-remediation consultant industry, and Shaun represents the insurance industry.

Anyone who qualifies for one of these three positions and is interested in joining the board is encouraged to express that interest in a letter to the governor. Your communication should explain why you think you would be a good member and what you believe you could contribute to the board's work. Attach a resume or include background information in your letter, including your complete mailing address and home and office telephone numbers.

Address the letter to: Governor Brian Schweitzer
Attention: Patti Keebler
State Capitol • Helena, MT 59620.

For additional information E-mail: pkeebler@mt.gov • Phone (406) 444-3111

Also visit Website: http://governor.mt.gov/boards_councils ■



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Meet Steve Michels

One of a series of brief, get-acquainted articles on Petro Board members

Steve Michels, 47, a life-long Montana resident, was born and raised in Great Falls. He now lives near Raynesford, about 30 miles east of Great Falls. Steve attended Montana State University-Northern in Havre.

Steve serves on the Petro Board as a representative of service station dealers.

Two of Steve's three girls are on their own, while the youngest is a high school senior. Steve has five years experience as a high school soccer coach.

Prior to acquiring a family-owned service station in Raynesford in 1999 and becoming president of Michels

Station, Inc., Steve had 20 years experience as a collision repair tech. He is also a third-generation petroleum distributor.

Steve is an active member in the Belt Cowboy Association, responsible for the Belt Rodeo.

An active member in the Raynesford Volunteer Fire Department, Steve also is a member of the Great Falls Chapter of Walleyes Unlimited. He spends much of his free time hunting, with the help of his two horses and three hound dogs, and hand fishing. In his pursuit of game, Steve takes annual fall pack trips into the Bob Marshall Wilderness. ■

Public Funding for UST Cleanups

*By the U. S. Government Accountability Office (GAO)
February 2007*

Underground storage tanks that leak hazardous substances can contaminate nearby groundwater and soil. Under the Resource Conservation and Recovery Act (RCRA), tank owners and operators are primarily responsible for paying to clean up releases from their tanks. They can demonstrate their financial responsibility by using, among other options, publicly funded state financial assurance funds. Such funds function like insurance and are intended to ensure timely cleanup. GAO was asked to report on (1) states' estimates of the public costs to clean up known releases, (2) states' primary sources of cleanups funding and their viability, and (3) federal sources to address these releases. GAO surveyed all states and discussed key issues with EPA and selected state officials.

States estimated that fully cleaning up about 54,000 of the approximately 117,000 releases (leaks) known to them as of September 30, 2005, will cost about \$12 billion in public funds. The Environmental Protection Agency (EPA) estimates that it costs an average of about \$125,000 to fully clean up a release. State officials said that tank owners or operators will pay to clean up most of the remaining 63,000

releases. However, an unknown number of releases lack a viable owner, and the full extent of the cost to clean them up is unknown.

While 16 states require annual proof of coverage, 25 states check owners financial coverage less often or not at all. Furthermore, 43 states expect to confirm about 16,700 new releases in the next five years that will require at least some public funds for cleanup. States reported that they primarily use financial assurance funds to pay the costs of cleaning up leaks. States reported that they spent an estimated \$1.032 billion from financial assurance funds to clean up tank releases in 2005. Overall, fund revenues totaled about \$1.4 billion in 2005, of which about \$1.3 billion came from state gasoline taxes. The assurance funds in the 39 states for which GAO has information held an estimated \$1.3 billion as of September 30, 2005, according to state officials.

Several state assurance funds may lack sufficient resources to ensure timely cleanups. While EPA monitors the status of state funds, its method of monitoring the soundness of these funds has limitations. Furthermore, there are concerns that,

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Public Funding for UST Cleanups – *continued from page 2*

by paying the bulk of the cleanup costs, state financial assurance funds may provide disincentives for tank owners – who pay only a relatively small deductible – to prevent releases.

In addition to their own funds, states employ resources from the LUST Trust Fund, the primary federal source of funds for cleaning up releases from underground storage tanks. As of September 30, 2005, the fund balance was about \$2.5 billion. For fiscal year 2005, the Congress appropriated about \$70 million from the fund to help EPA and the states clean up releases and to oversee cleanup activities. EPA distributed about \$58 million of this amount to the states to investigate and clean up releases and conduct enforcement efforts, among other actions. To distribute LUST Trust Fund money among the states, EPA uses a formula that includes a

base amount for each state and factors to recognize states' needs and past cleanup performance. However, although the LUST Trust Fund provides funds to states to assist in addressing releases from tanks without a viable owner, EPA has not incorporated this factor into its formula. Furthermore, EPA's information on states' performance comes from state reports; however, GAO found that some of the information in these reports is inaccurate and inconsistent.

The full GAO report is accessible online at: <http://www.gao.gov/docdb/lite/details.php?rptno=GAO-07-152>. ■

The Way it is in Montana

Under delegated state programs such as Montana's, tank owners and operators have options for demonstrating their financial responsibility.

Typically, viability in Montana is an issue associated with an owner's failure to comply with facility permits at the time of a release. This makes an owner responsible for the full cost of cleanup which is impossible for some owners.

In 2005, Montana spent \$5 million in financial assurance funds, that is, the Petroleum Tank Release Compensation Fund, to support cleanup of tank releases. Funds available for cleanup in Montana average \$4.7 million per year. However, as costs rise, the amount of cleanup completed declines. Montana reports that its fund has lost more than 40 percent of its purchasing power since it was created. ■



Underground Storage Tank Removal

E85 Dispenser Products Scheduled for UL Testing

By U.S. Department of Energy - Alternative Fuels Data Center

March 2007

Underwriters Laboratories (UL) expects to complete the research and validation process of UL's safety certification requirements for E85 fuel dispensing equipment by the end of the fourth quarter of 2007. UL has been working to establish safe dispenser standards that will guard against the significantly different corrosive effects of ethyl alcohol (ethanol) as compared with both gasoline alone and the 10 percent ethanol blend only available in the U.S. today. E85 is a blend of 85 percent ethanol and 15 percent gasoline.

UL has been working with the Department of Energy (DOE) in an intensive scientific research program intended to advance public knowledge about the long-term effects of highly concentrated ethanol on the components of E85 dispensers and the subsequent effects on fire and environmental safety. Once the research is finalized and the science established, UL expects to begin accepting dispensing products for evaluation and certification, beginning in January 2008.

To support this research and validation process, UL has undertaken four concurrent initiatives:

- Information Outreach, gathering input from 75 academic, manufacturing and governmental stakeholders and reviewed more than 175 technical articles and research reports.

- Research Test Program, including a 2500-hour static conditioning test ongoing through September 2007 which will aid in determining the necessary protocols for adequately evaluating potential degradation of dispenser materials from exposure to E85.
- Field Observations, providing UL with real-life performance data for E85 dispensers in the marketplace.
- Product Harvesting, collecting dispenser components used to dispense ethanol-blended fuels in the U.S. and Brazil (which has an extensive ethanol fuel distribution infrastructure) for analysis of material compatibility effects of ethanol blends.

When the validation process is complete, UL expects to lead in the creation of a consensus standard for E85 dispensing equipment through its accredited Standards Technical Panel process. Consensus Standards—developed in collaboration with industry, consumer and governmental interests—provide both public safety and rapid market access for new technologies such as E85.

For more information, see the UL Website at www.ul.com. ■



Petro Board Revenue and Reimbursements

Terry Wadsworth, executive director of the Montana Petroleum Tank Release Compensation Board, has notified storage tank owners, operators, consultants and subcontractors of a delay in paying claims for reimbursement of eligible leak-cleanup costs.

The reason: claim reimbursement requests have exceeded revenue into the tank release compensation fund.

There are several reasons for this shortfall. Since 1989, the fee that supports the fund has remained flat. Gas consumption has increased at a slower rate than costs of cleanup. Increasing costs of cleanup can be attributed to many factors including labor and equipment prices, the rising cost of contracting and other factors. In addition, a few large cleanups have placed a high demand on the fund.

State law, 75-11-307(5), MCA, requires that:

If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made, and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board.

The board will continue to approve claims for reimbursement and all claims will be reimbursed in the order that they are determined complete.

The notice advises owners, operators and their consultants to be sure that submitted claims contain proper documentation so that they can be completed in a timely fashion. Owners, operators and consultants are notified when claims are incomplete. Incomplete claims are suspended and are not placed in the queue for processing until all necessary documentation has been received resulting in a longer delay in the time for reimbursement.

To address the delays, the board and the Department of Environmental Quality are evaluating their respective priorities in order to determine whether cleanup work can be scheduled or managed in a way that meshes with the flow of revenue to minimize delays.

Wadsworth's Fund Status Letter is accessible online at:

<http://www.deq.mt.gov/pet/NewNews/FundBalanceNotice.pdf> and he can be reached at 406-841-5092. ■

Montana Biofuels Industry Group Awarded Grant for Workshops

The Ethanol Producers And Consumers (EPAC) of Montana received an \$87,500 grant earlier this spring to conduct 13 workshops which will support the biofuels industry in 32 counties in eastern and central Montana and on six Indian reservations.

EPAC received the grant from the Montana Commerce Department's Workforce Innovation in Regional Economic Development (WIRED) program, created by Governor Brian Schweitzer's office to spur value-added agricultural energy projects. The grant money originated through the U.S. Department of Labor. Montana's application for the federal funds was one of only 13 approved nationwide.

The Commerce WIRED program has nearly \$3.5 million in grant funds available annually for customized worker training for businesses working with universities, colleges, high schools, and other training providers on specialized bio-product training and curriculum development. The program will also provide grants for WIRED eligible job training programs or projects that will enhance and expand the bio-product industry in the WIRED region.

More information on the Commerce Department program is available from Marissa Kozel, Public Information Officer, Montana Department of Commerce, Director's Office, 406-841-2772, mkozel@mt.gov ■

DEQ Updates Policy Affecting Moderate Tank Leaks

The Department of Environmental Quality has recently updated a provision of its enforcement policy applying to an automatic tank gauge (ATG) leak-test-history report submitted as documentation of monthly tank monitoring.

The Change

When monthly 0.2 leak-test results are documented by an ATG history, the violation now is considered “moderate” instead of “major.” This change means that the corrective action opportunity will extend to the number of months needed to achieve full compliance. Previously, the corrective action timeframe ended 14 days before the operating permit expired.

The corrective action timeframe has changed, but noncompliant facilities will still be referred to the department’s Enforcement Division when the corrective action timeframe ends.

The department’s interpretation that ATG histories are not acceptable documentation of monthly tank leak detection also remains unchanged.

Background

Montana’s underground storage tank regulations require owners and operators to monitor USTs for releases at least monthly and to maintain monitoring records as documentation. Monthly tank-leak detection with an ATG is verified by documenting at least one 0.2 gallon per hour (GPH) leak test per month.

It is the department’s position that a printout showing a test was conducted by equipment some months earlier is not, by itself, documentation of “monitoring.” Monitoring is done when a person observes the test result. The department assumes that if a printout of the test results was saved by a person at or near the time of the test, then the test results were observed by a person at the appropriate time. While a printout of history may show a test was conducted by the ATG panel several months earlier, it does not document that a human would have seen the results of the test in the month it was run.

Acceptable Records

Adequate monthly ATG, 0.2 gph test records should include:

- the facility name;
- enough tank identification to ascertain which tank was tested;
- the date of the test;
- the test standard (0.2 gph);
- product gallonage showing the tank’s volume met the requirements of the leak-detection monitoring equipment; in addition, testing should be conducted when the volume is representative of what is normally kept in the tank. This does not apply to CSLD enhanced tests;
- whether the tank passed the test. ■

Montana had Forty-Two Petroleum Releases in 2006

The DEQ’s Petroleum Release Section reports that, of the forty-two releases discovered in 2006, nine resulted from spills and overfills, three of which were from bulk tank trucks and four resulted from unattended nozzles.

The PRS reports that Technical Guidance Document 15, *Prioritization of Petroleum Release Sites*, addresses the DEQ’s site-prioritization process, and can be found on the DEQ Website www.deq.mt.gov/LUST/index.asp. ■

Enforcement Report

The Montana Department of Environmental Quality has recently collected penalty payments totaling more than \$17,000 from eight businesses, a federal agency and a public school district for violations of the state Underground Storage Tank Act.

David Walker paid a \$5,000 penalty for failing to investigate an underground storage tank leak at the **Yellowstone Truck Stop** in Great Falls. Under a stipulation, Walker agreed to spend \$100,000 by June 1, 2009, to investigate the site.

Stockton Oil Co. of Billings paid a \$2,500 penalty for failure to conduct a compliance inspection or close a UST at **State Avenue Drug and Hardware** of Billings within the required time.

The **Kirkwood Ranch Motel Trailer Park** in West Yellowstone paid a \$2,300 penalty for operating a non-permitted underground storage tank system, and **Rocky Mountain Supply** of Belgrade paid a \$1,438 penalty for placing a regulated substance in the non-permitted UST system at the Kirkwood Ranch Motel Trailer Park.

The former owner of the **Lakeside General Store** near Helena, Merritt & Marie LLC, paid a \$2,100 administrative penalty for failing to conduct monthly release-detection

monitoring on the facility's tank systems and failing to maintain release-detection monitoring records for a year.

Failure to conduct monthly release-detection monitoring and maintain release-detection monitoring records for a year at the **Flying J Truck Stop** of Belgrade also resulted in penalty payments of \$1,500 from Alsaker Corp., and \$1,100 from Automatic Car Wash Inc., operator of **Don's Car Wash** on Grand Avenue in Billings. The facility at Don's Car Wash also was penalized for inadequate corrosion-protection on one of its tank systems.

The **Elliston Store** in Elliston paid a \$500 penalty for failing to take corrective actions within a required time.

The Helena branch facility of the **U.S. Federal Reserve Bank of Minneapolis** and the **Centerville Public School District** were both subject to \$300 administrative penalties for failing to conduct monthly release-detection monitoring and failing to maintain release-detection monitoring records for a year. ■



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